IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2007

C O R A M

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

Crl.O.P.No.23952 of 2000&
Crl.M.P.Nos.9139 & 9140 of 2000

D.Rajitha . . Petitioner

Vs.

M/s.Enen Impex Private Limited,
represented by Authorised Person
Mr.K.Vijayarangan,
38, college Road,
Chennai 600 006. . . Respondents

The Criminal Original Petition is filed to quash all further proceedings on the file of the XIV Metropolitan Magistrate, Egmore, Chennai 600 008, in pursuant to proceedings initiated by the respondent/complainant in C.C.No.7884 of 2000.

For petitioner :Mr.D.Veerasekaran
For Respondent :No appearance

ORDER

There is no representation for the respondent. The learned counsel for the petitioner submits that for several hearings the very same state of affairs prevailed and that hence orders might be passed after hearing the arguments to be advanced on the side of the petitioner.

2. After going through the docket orders, this Court is satisfied that it is a case in which orders can be passed after hearing the submissions made by the learned counsel appearing for the petitioner, even though there is no representation on behalf of the respondent.

3. This Court heard the submissions made by the learned counsel appearing for the petitioner and perused the materials available on record. Upon such a perusal this Court comes to a conclusion that it is a fit case in which the proceedings pending before XIV Metropolitan Magistrate in C.C.No.7884 of 2000 has got to be quashed. The reasons are as follows;-

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. The respondent herein filed a private complaint under Section 200 Cr.P.C. on the file of the XIV Metropolitan Magistrate, Egmore, Chennai for the alleged offence punishable under Section 138 Negotiable Instruments Act and the same was taken on file as C.C.No.7884 of 2000, after recording the sworn statement of the authorised person representing the respondent/complainant.

5. According to the complaint, the petitioner/accused issued a cheque dated 05.10.2000 bearing No.123232 for a sum of Rs.2,00,000/- in favour of the respondent herein and the cheque was drawn on Union Bank of India, Egmore Branch. When the cheque was presented for collection through the Nungambakkam branch of the very same bank on 04.04.2000, the same was returned with an endorsement on the dishonour slip, "payment stopped by the drawer" on 06.04.2000. The fact of dishonour was informed to the respondent/complainant on 07.04.2000. A legal notice was issued on 08.04.2000 which was served on the petitioner/accused on 18.04.2000 and even after the receipt of the said notice, the petitioner/accused did not make arrangements for payment of the amount covered by the dishonoured cheque.

6. The learned counsel appearing for the petitioner, taking the Court through the averments found in the complaint as well as the sworn statement recorded by the learned XIV Metropolitan Magistrate, Egmore, Chennai-8, contended that on the face of the allegation itself no offence could be made out. The cheque was allegedly dated 05.10.2000. But it is curious to note that the cheque as per the complaint, was presented for encashment on 04.04.2000 i.e. six months prior to the date of the cheque. The respondent/complainant has not explained how the cheque dated 05.10.2000 could have been presented for collection on 04.04.2000 itself. The very same discrepancy is reflected in the sworn statement also. The learned XIV Metropolitan Magistrate, Egmore seems to have closed his eyes to the said vital discrepancy going to the root of the matter and mechanically taken the complaint on file and registered it as C.C.No.7884 of 2004. The single fact pointed out by the learned counsel appearing for the petitioner itself is enough to held that it is a fit case to quash the criminal proceedings pending on the file of the XIV Metropolitan Magistrate, Egmore, Chennai in C.C.No.7884 of 2000. Accordingly it is quashed. Consequently, connected miscellaneous petitions are closed.

jikr

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

To

1.The XIV Metropolitan Magistrate, Egmore, Chennai-8.
+ One cc to V. Chanakya, Advocate SR 74082
AD (co)
sg 03/01/08 Crl.O.P.No.23952 of 2000

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/